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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,886	12/28/2001	Jay D. Hodson	24180-907000	1633

7590 05/11/2006

Stephen T. Scherrer
McDermott, Will & Emery
227 West Monroe Street
Chicago, IL 60606-5096

EXAMINER

RHEE, JANE J

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/034,886	Applicant(s) HODSON ET AL.	
	Examiner Jane Rhee	Art Unit 1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-50 and 70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-50, 70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Rejections Repeated

1. The 35 U.S.C. 112 1st paragraph rejection of claims 31-50,70 has been repeated as previously made in office action 8/25/2005.
2. The 35 U.S.C. 102(b) rejection of claims 31,38-46 anticipated by Huizinga has been repeated as previously made in office action 8/25/2005.

As to the new limitation "and a second portion, wherein the first portion is disposed from the second portion in the transverse of the surface of the flexible film", Huizinga discloses that the first laser scored pattern comprises a first portion and a second portion, wherein the first portion is displaced from the second portion in the transverse direction of the surface of the flexible film (figure 5 number 21).

3. The 35 U.S.C. 103(a) rejection of claims 32-37,49-50,70 unpatentable over Huizinga in view of Schlaeppi has been repeated as previously made in office action 8/25/2005.
4. The 35 U.S.C. 103(a) rejection of claims 47 and 48 unpatentable over Huizinga in view of Bailey has been repeated as previously made in office action 8/25/2005.

New Rejection

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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5. Claim 39 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The new matter limitation is "and a second portion, wherein the first portion is disposed from the second portion in the transverse of the surface of the flexible film".

Response to Arguments

6. Applicant's arguments filed 3/3/2006 have been fully considered but they are not persuasive.

In response to applicant's argument that support for the phrase "first laser scored pattern" is found on page 14 line 3 which reads "the laser beam is applied to a surface of the web to score.." and takes the position that a surface has the same meaning as first surface, is not considered support for the limitation "first laser scored pattern." When referring to a surface, it can be considered any surface and refers to only one single surface, whereas first surface is a specific surface and provides evidence that there is more than one surface because if there is a first surface then there must be a second surface. Hence, " a surface" is not support for "first laser scored pattern".

In response to applicant's argument that amendment of claim 39 has support in the preliminary amendment filed on March 3, 2003, support only comes from original filed claims and the original filed specification and not the preliminary amendment filed

on March 3, 2003. Secondly, the phrase "second portion" was searched through out the specification and not found.

Applicant argues that Huizinga fail to disclose that a plurality of laser scored patterns form a first line of weakness in the flexible film running continuously in the machine direction of the film, and then states that Huizinga teaches "score lines 21 in this case do not continue as far as the turned down rim of the packaging material but terminate in full material near point P." (col. 5 lines 3-6). Applicant refers the embodiment in figures 8a-8g of a cigar container wherein the examiner refers to the sachet in figure 2a to 3a which states in col. 3 line 62-63 that score line 21 may have a *continuous* or a discontinuous form. As to the limitation " wherein the first plurality of laser scored patterns form a first line of weakness in the flexible film running continuously in the machine direction of the flexible film", Huizinga teaches in figure 3a score line 21 is continuous in the machine direction. Applicant is accentuating the process of forming the first plurality of laser scored patterns wherein, in the machine direction the first plurality of laser scored patterns is formed in one line. However, the end product wherein the film comprises a first plurality of laser scored patterns form a first line of weakness in the flexible film running continuously in the machine direction of the flexible film, is an end product that provides a continuous pattern that eliminates any gaps in the laser scored patterns regardless of how the pattern was formed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

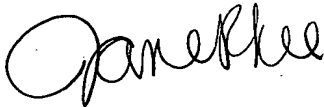
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F 9-6.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jane Rhee
May 5, 2006



PATRICK JOSEPH RYAN
SUPERVISORY PATENT EXAMINER